UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA

SPLOS

MEETING OF
STATES PARTIES

Distr.
GENERAL

SPLOS/26
12 March 1998

ORIGINAL: ENGLISH

MEETING OF STATES PARTIES
Eighth meeting
New York, 18-22 May 1998

LETTER DATED 12 MARCH 1998 FROM THE CHAIRMAN OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF ADDRESSED TO THE PRESIDENT OF THE EIGHTH MEETING OF STATES PARTIES

1. At its second session, the Commission on the Limits of the Continental Shelf completed the consideration of its Rules of Procedure and decided to adopt them, with the exception of the two annexes to the Rules which after further consideration and adoption by the Commission will form an integral part of these Rules (CLCS/3, rule 56(2)). Annex I is entitled "Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes". Annex II is entitled "Confidentiality".

2. Concerning the annexes attached to the Rules, the Commission decided that annex I would be adopted by the Commission only after it had been considered by the Meeting of States Parties. With respect to annex II, the Commission decided that it would adopt annex II if and when the issue of the privileges and immunities of its members, in dealing with confidential material and in the exercise of all their other functions, was resolved positively. In this regard, the Chairman was requested to transmit the two annexes to the Meeting of States Parties through its President, and if possible, to attend the Meeting of States Parties to present these issues (CLCS/4, para. 11).

3. At the same session the Commission, being concerned with the issue of the liability of the members of the Commission arising from potential allegations of breach of the rules on confidentiality (CLCS/4, paras. 11 and 12 (b)), decided that article VI of the Convention on the Privileges and Immunities of the United Nations (General Convention) shall apply mutatis mutandis to the members of the Commission, as experts on mission for the United Nations. It also decided to request the United Nations Legal Counsel to provide it with a formal legal opinion as to the applicability of the above-mentioned Convention to the members of the Commission (ibid., para. 20).

4. Such legal opinion has already been provided in the letter dated 11 March 1998 from the Legal Counsel, Under-Secretary-General of the United

Nations for Legal Affairs, addressed to the Commission on the Limits of the Continental Shelf (CLCS/5). The conclusion of the opinion is that, "by established precedent in respect of similar treaty organs, the members of the Commission on the Limits of the Continental Shelf can be considered to be experts on mission covered by article VI of the General Convention" (ibid., para. 5). Since the issue of the status of the members of the Commission has already been resolved positively, it is not being submitted to the Meeting of States Parties for consideration.

5. In addition to the above-mentioned, the Commission decided to submit the following issues to the Meeting of States Parties for clarification and/or possible recommendation (CLCS/4, para. 12 (a) and (c)):

(a) In the light of article 4 of annex II to the Convention, do the terms "a coastal State" and "a State" include a non-State party to the Convention, or do they only refer to a coastal State or a State which is a State party to the Convention? This clarification, in the view of the Commission, is necessary for the application of rule 43 of its Rules of Procedure;

(c) The Commission would request the Meeting of States Parties to consider a recommendation for the establishment of a trust fund to be administered by the Secretary-General of the United Nations. Such a fund would be used to meet the travel and accommodation expenses of members of the Commission from developing countries.

6. On behalf of the Commission on the Limits of the Continental Shelf, I would be very grateful if the Eighth Meeting of States Parties would consider the items submitted to it by the Commission.